1946

File No. O Opium 46

Legal Dept:

A. **BRANCH**

Subject:— Opinions under the

Indian opium Act 1878

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C O N T E N T S.

Legal Department File No. O. Opium/46
1946

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	O.Opium 1946.		Opinions under the Indian Opium Act, 1878.	
1.		2812 29-3-46	Whether in the absence of the provision in the Rules for the imposition of a fine for infringement of a license condition the licensing authority can impose a fine as provided for in the license condition -	1-3

(Draft Reply) Office of the R.L.A.

The question raised by the Commissioner of Excise for the consideration of the R.L.A. is whether in the absence of the provision in the Rules ffor the imposition of a fine for infringment of a license condition the licensing authority cam impose a fine as provided for in Condition 19 of the license for retail Sale of opium.

2 It is true that in the absence ~~for retail sale~~ of any ~~opium~~ provision in the Rules framed under the Opium Act, 1878, condition ~~19~~ 19 of the license for retail sale of opium providing for a fine of Rs.1000 cannot be enforced. But rule 16A of the Bombay Opium Rules, 1940, provides that every person taking out a license for the sale of opium shall execute a counterpart agreement in the Form prescribed by the Comissioner with the previous sanction of Government in conformity with the tenor of his license and shall give such security for the performance of his agreement as the Collector may require. There would therefore be no legal objection to demanding security from the licensee for the proper performance of the conditions of the license, which can be forfeited on breach of any condition (see 29 Mad.118)

Sd/-
26-3-46
Remembrancer of Legal Affairs.

M.K.D.
7-7-56
C.4

U.R. to R.D. No. dated the March 1946.

Letter.

No. 2412
Office of the R.L.A.
Bombay Castle, 29th March 1946

TO

The Commissioner of Excise.

Subject:- Whether in the absence of the provisinn in the rules for the imposition of a fine for infringment of a license condition the licensing authority can impose a fine as provided for in the license condition.

With reference to your letter No.81-1/45, dated the 122th December 1945, on the subject noted above, I have the honour to observe as follows:-

2. It is true that in the absence of any provision in the Rules framed under the Opium Act, 1878, condition 19 of the license for retail sale of opium providing for afine of Rs 1000 cannot be enforced. But rule 16A of the Bombay Opium Rules 1940, provides that every person taking out a license for the sale of opium shall execute a connterpart agreement in the Form prescribed by the Commissioner with the previous sanction of Government in confromity with the tenor of his license and shall give such security for the per -formance of his agreement as the Collector may require. There would, therefore be no legal objection to demanding security from the licensee for the proper performance of the conditions of the license, which can be forfited on breach of any condition (see 29 Mad. 118).

d/- P.N.Moos.
Remembrancer of Legal Affairs.

M.R.D.
7-7-56
C.4

Through the Revenue Department.